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Paper No. 25

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**Director's Office  
Office of Patent Publication**

**JOHN P. WHITE  
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NEW YORK, NY 10036**

In re Application of :  
Carlos Cordon-Cardo, et al. :  
Application No. 09/329,917 :  
Filed: June 10, 1999 :  
Attorney Docket No. 55293-A/JPW/AJM/HA :

**DECISION ON PETITION**

This is a decision on the Petition Under 37 C.F.R. § 1.181 To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark (USPTO) on February 28, 2003.

The application was held abandoned for failure to timely file formal drawings as required by the Notice of Allowability, mailed July 23, 2002, which set a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on December 9, 2002.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

Petitioner states that "In the July 23, 2002 Notice, the Examiner required applicants to submit new formal drawings including the drawing correction specified in the July 22, 2002 Notice Of Draftsperson's Patent Drawing Review." Petitioner states that in response, applicants timely filed a Communication Forwarding Formal Drawings, concurrently with payment of the issue fee.

The USPTO acknowledges receipt of the Communication Forwarding Formal Drawings with twelve sheets of drawings attached therewith on October 29, 2002, via certificate of mailing, signed and dated October 23, 2002. 37 CFR § 1.8 However, the applicant did not respond the Examiner's Amendment (copy enclosed), which accompanied the Notice of Allowability, mailed July 23, 2002. In particular items 1. and 3.

Therefore, the application was properly abandonment and will not be withdrawn at this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, further petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or (a) 1203 of the Official Gazette 63, October 21, 1997.

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable:  
and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

With respect to an application filed before June 8, 1995, any petition under § 1.137(a) or (b) that is filed more than six months after the abandonment date must—according to § 1.137(d)—be accompanied by a terminal disclaimer with disclaimer fee.

- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

The application is being forwarded to the Office of Petitions for a decision on the petition under 37 CFR 1.313 (c) (2) to withdraw the application from issue.

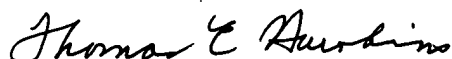
Further correspondence with respect to this matter should be addressed as follows:

*By mail:* Assistant Commissioner for Patents  
Box DAC  
Washington, DC 20231

*By facsimile:* 703-308-6916  
Attn.: Office of Petitions

*By hand:* Crystal Plaza Four, Rm. 3C23  
2201 South Park Place  
Arlington, VA

Telephone inquiries concerning this matter may be directed to the Office of Petitions at 703-305-9282.



Thomas E. Hawkins  
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